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SUBJECT: CARROTS AND STICKS IN CHINA'S ENFORCEMENT OF FAMILY
PLANNING POLICY

REF: A) BEIJING 2795 B) BEIJING 2187 C) STATE 77549
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¶1. (SBU) SUMMARY: Beijing experts on family planning assert that China's family planning efforts have broadened beyond population targets and include a number of programs and strategies emphasizing a more incentive-based and service-oriented approach. Targets remain, however, as do heavy financial and administrative penalties for unauthorized or 'out-of-plan' births, while structural incentives in the family planning monitoring and evaluation system may also trigger coercive enforcement in some regions. At the same time, the Central Government has instituted a number of rural social subsidy programs, which include monthly stipends and other preferential benefits for those who meet family planning regulations. The government is making efforts to improve the accessibility and quality of family planning and reproductive health services, particularly for migrants, as well as making it possible for migrants to comply with family planning regulations without burdensome travel. END SUMMARY

PENALTIES FOR VIOLATIONS CONTINUE

¶2. (SBU) China's family planning policies are implemented at the provincial level and both regulations and the degree to which they are enforced vary. A key part of enforcement is a financial penalty, called a "social compensation fee," for unauthorized births. These 'out-of-plan' births include having too many children, having children out-of-wedlock, early-age childbirth, or having another child before the end of a mandated birth spacing period.

¶3. (SBU) In a July 30 meeting with ESTHOff, the United Nations Population Fund's (UNFPA) Deputy Representative Mariam Khan explained that because social compensation fees are stipulated in the 2002 National Family Planning Law, they are seen by local family planning officials as irrevocable unless the law is amended or replaced. Khan noted, however, that the implementation of these fees is left up to local authorities, so the fee structure, the violations that incur them and the degree and method of enforcement varies by province and even by county. Social compensation fees are generally set as a multiple of average annual disposable or gross income in that area, with different formulas for different violations. The burden on a couple can be much greater than the fine alone, since additional disciplinary measures may include loss of government subsidized health benefits, job loss or demotion, loss of promotion opportunity, expulsion from the Communist Party, and other administrative punishments.

¶4. (SBU) The flexibility permitted in fee structures used means the seriousness of financial penalties varies widely across locations. Social compensation fees are levied per person so both the husband

and wife must pay. Current Beijing family planning regulations stipulate that for the first out-of-plan child, each person must pay three to ten times Beijing's average per capita disposable income of the previous year, or three to ten times his or her own actual disposable income, whichever is higher (NOTE: Disposable income is calculated for China's urban areas only and is a person's gross annual income minus income tax, contributions to social security, and other compulsory expenditures. END NOTE). For a second unauthorized child the fine basis is doubled. The per person fine for an out-of-wedlock birth in Beijing is equal to the annual average per capita disposable income, while a birth spacing violation incurs a fine of 20 percent of the annual average per capita disposable income.

15. (SBU) Hunan Province revised their regulations in September 2007, increasing the per person social compensation fee for the first unauthorized birth from two times the provincial annual average per capita gross income or the person's actual annual gross income, whichever is higher, to a range of two to six times that income. (NOTE: Hunan Province does not calculate for disposable income as Beijing does. END NOTE) In Hunan, the basis for the fine for a second out-of-plan child is triple that of the first unauthorized birth.

16. (SBU) UNFPA's Khan told ESTHoffs that UNFPA is making progress in encouraging the relaxation of social compensation fees. Khan said that UNFPA's strategy is to work within the provisions of the National Family Planning Law to minimize the impact of the fees in the drafting of regulations at the local level. Among UNFPA's 30 project counties (one in each province and municipality), 12 counties have already agreed to adopt the lowest fines permitted by the provincial regulations. UNFPA is also working with counties to

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remove certain categories of violations. For example, 20 of the 30 project counties have removed birth spacing requirements, and therefore the associated fees. Thirteen provinces across China have eliminated birth spacing requirements altogether. Khan further noted that UNFPA is working toward eliminating the practice of penalizing out-of-wedlock births by encouraging family planning officials to address that issue through improved premarital and adolescent reproductive health education, instead of through punitive measures. According to Khan, current family planning services and campaigns that provide contraceptive information are targeted primarily at married couples.

17. (SBU) Social compensation fees have been reported in the press as a social justice issue. The media have carried articles criticizing the fact that wealthy and famous couples in China are able to have more children by simply paying the fines, or going overseas to have a second child. A June 2009 article in an international newspaper cited that between 2001 and 2008, nearly 78,000 babies were born in Hong Kong to parents registered as living on the Mainland. Family planning authorities have also complained publicly that their policies are being undermined by China's growing middle and upper classes, who, in many cases do not rely on government largess and therefore are less likely to feel burdened when paying existing penalties. The former Minister of the National Population and Family Planning Commission (NPFPC) ZHANG Weiqing was described as saying there is "a huge shadow over the policy" and "growing resentment among poorer families" due to this phenomenon. Local officials have attempted to address this issue by increasing fines for the wealthy and taking other measures targeted at their reputations. For example, in Beijing, individuals can be banned from winning national awards or can be publicly named in the media for violations, even if they have paid the requisite fees.

COERCIVE ENFORCEMENT IN SOME LOCALITIES

18. (SBU) Although "abusive" enforcement of family planning policies is prohibited under the 2002 Population and Family Planning Law, according to Peking University (PKU) Population Studies professors CHEN Gong and MU Guangzong, there are aspects of current family planning practice and management that could exacerbate coercive

enforcement. NPFPC reported to ESTHoffs recently that since 2006, they have revised the evaluation criteria of family planning officials to focus more on customer satisfaction, with attention paid to "client needs" and "human rights". However, population targets are still a performance indicator for local family planning officials. In a July 24 meeting, Chen and Mu told ESTHoffs that China's system of setting successive targets from the highest level of government down to the lowest creates enormous added pressure on local officials. As the two scholars explained, in setting targets for low population growth or low birth rates, each level of government sets a target for the lower level that gives them a comfortable buffer for achieving their own target, resulting in the targets becoming more extreme and difficult to achieve at the lowest levels. Mu and Chen note that this requires local family planning officials to come up with "new schemes" to try and reach their targets, which may include special incentive programs, but could also include coercive measures. In addition, Mu and Chen speculated, this system has resulted in local officials aggressively pursuing low birth rates without considering long term demographic consequences, for example, the extremely low fertility rates of around 1.2 in some areas.

¶9. (SBU) Certain monitoring and enforcement practices force couples to choose either to have an induced abortion or pay the heavy financial and administrative penalties associated with an out-of-plan birth. Many localities require regular pregnancy testing for women of child bearing age who are not eligible to have more children. (NOTE: The pregnancy check or reproductive health check-up is a common practice, especially in localities with population pressure. Local officials sometimes conduct the check-ups under the name of "providing family planning services." END NOTE.) In several provinces, including Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, Liaoning, and Ningxia, local family planning regulations explicitly call for the "termination of pregnancy" upon discovery of an unauthorized pregnancy, without additional guidance on how to enforce this rule.

¶10. (SBU) Although most sources agree that there are probably cases of coercive local family planning enforcement that violate the law, it is very difficult to find reports or documentation of such abuses unless they have occurred on a large scale. One prominent case of coercive enforcement was reported in 2007 in Guangxi Province, where alleged abuses by local officials triggered a series of riots (REFS D/E/F). According to press reports at the time, Bobai County

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officials, facing administrative penalties for their poor family planning performance, launched a campaign to reign in excess births with "steely determination, steely methods and steely discipline" against violators. The mayor of one city in Bobai was also quoted as calling for the stabilization of the low birth rate "by all means necessary." The new regulations and penalties that were reported by the local media included much higher fines, seizure of property including furniture, livestock, and rice stores if fines were not paid, and targeted sterilization. Family planning teams were also reported to have destroyed personal property and homes in the process of collecting fines. Press coverage further noted that resentment over these measures was heaped on top of public anger at the double standard of local officials who over time had elected to have excess children with impunity. Following the riots, NPFPC issued an official statement that said they were investigating the case of Bobai County and would "deal with" the situation. In January 2008, Chinese media reported that 104 Bobai County officials had been dismissed from their positions, due to personal violations of family planning regulations including having had unauthorized children. None of the dismissals, however, were directly attributed to malfeasance in enforcement of family planning regulations. (COMMENT: The fact that this case was reported in the state-owned and state-controlled media signals that there was high-level government or Party dissatisfaction with Bobai County officials for allowing family planning enforcement to trigger social unrest. END COMMENT)

SHIFT TOWARDS INCENTIVES FOR COMPLIANCE

¶11. (SBU) An important shift in family planning enforcement since 2006 has been the diversification of methods for achieving family planning objectives. In his work report to the National People's Congress (NPC) in March 2008, Premier Wen Jiabao emphasized the expansion of rewards and subsidies, noting, "we will fully implement the special assistance system for families that comply with family planning regulations, extend the coverage of the reward system for rural families that comply with the regulations, implement the 'fewer births equals faster prosperity' project in more areas, and raise the level of rewards and assistance." Targeting poor rural areas, these national subsidy programs, or "Three Systems to Improve People's Livelihood" are seen as offering both positive incentives for complying with family planning policies and a means of supporting a rural social security system.

¶12. (SBU) Within China's family planning regulatory framework, the broadest and longest-standing subsidy is the Social Support Program, in which individuals who have complied with family planning policies (by having borne only the allowed number of children) receive a monthly cash stipend beginning at age 60 for both men and women. This stipend is seen as both a reward for compliance with family planning rules and an extra resource for supporting rural old-age social security. (NOTE: In rural areas, where the elderly rely primarily on their families for care and support, this social support compensates couples who have had one child for the loss of resources they might traditionally have received from their many children. END NOTE) Piloted in 2004, this basic subsidy was implemented nationally in 2006. By the end of 2008, 8.33 million individuals had qualified for this subsidy, with a total of RMB 5.2 billion (USD 761.5 million) in rewards distributed. Beginning in January 2009, the amount of the social subsidy payment increased from RMB 600 (USD 88) per person per year to RMB 720 (USD 105). (NOTE: According to the government's annual Statistical Communique, in 2008, China's annual per capita net income for rural households was RMB 4,761 (USD 697), with over 40 million rural Chinese living below the poverty line with an annual per capita net income below RMB 1,196 (USD 175). Since the family planning social subsidy is awarded to each person individually, a couple qualifying for the award would receive a combined RMB 1,440 (USD 210) per year, which would represent a sizeable proportion of a rural household income. END NOTE) Deputy Director General RU Xiaomei of NPFPC's International Cooperation Department told ESTHOffs during a July 31 meeting that there have been proposals to move up the eligibility for receiving rewards to age 50, to further sweeten the incentive.

¶13. (SBU) Another subsidy program, known as the "Fewer Births Equals Faster Prosperity" program, is aimed at giving poor rural families who have fewer children than they are entitled an economic boost through incentives, such as lump sum cash awards, loans to invest in income-generating activities, or free job training. The program now includes eight provinces and autonomous regions in western China including Inner Mongolia, Hainan, Sichuan, Yunnan, Gansu, Qinghai, Ningxia and Xinjiang. In 2008, the government expanded the scope of the program's target group from "couples who

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can have three children but voluntarily have one child less" to "couples who can have three children but voluntarily have one child or two children less," offering greater awards and an earlier opportunity for eligibility, and an added incentive for those households in poor western provinces to limit their family size. A precondition for this subsidy is that couples must submit a written "commitment," or contract, that they will not have more children, as well as submit documentation from a hospital or family planning clinic that sterilization or some other long-term contraceptive method has been carried out. Between 2006 and 2008, the program enrolled 280,000 individuals with a total of RMB 840 million (USD 123 million) in rewards disbursed. If a couple in the program is found to have an additional child they must pay back all benefits received.

¶14. (SBU) The most recently-established social subsidy, known as the "Special Assistance Program," is awarded to parents in cases where their only child has suffered a serious disability or death.

Initially piloted in 10 provinces, implementation of the special assistance program was extended nationally starting in 2008. The assistance fund is RMB 80-100 per person per month after the mother reaches age 49. The theory is that the subsidy will help support parents whose child is rendered unable to work or provide for his parents in old age; thus, couples who later give birth to or adopt another child lose eligibility for the reward. By the end of 2008, this special subsidy has assisted about 157,000 couples and distributed RMB 170 million (USD 25 million) in assistance funds.

IMPROVING SERVICES AND ACCESS FOR MIGRANT WOMEN

¶15. (SBU) Peking University (PKU) Professor CHEN Gong told ESTHoffs that an important shift beginning in 2008 was an increased emphasis on equality in the provision of family planning services, including a special focus on making basic family planning services, such as regular gynecological examinations, prenatal checkups, and postpartum visits, more freely available to rural and migrant women.

At a national conference on rural family planning work in December 2007, then NPFPC Minister ZHANG Weiqing released findings that over 60 percent of family planning violations were committed by the migrant population, highlighting the Central Government's concerns over the lack of a system for managing family planning among migrants. Migrants also have been reported to receive unsafe or poor quality services because of their inability to access free public services near their place of temporary residence. In his 2008 work report to the NPC, Premier Wen emphasized the twin goals to "improve services for the floating population and to tighten supervision of them to ensure that they comply with the family planning policy."

¶16. (SBU) The State Council recently released a new set of national family planning regulations for the migrant population, to become effective October 1, 2009. The new regulations make family planning services including reproductive health information and services, contraceptive devices, and family planning technical services available and free to migrants in their temporary residences. Previously, migrants were often forced to return to the place of their legal household registrations (hukou) to receive services. (NOTE: China's "hukou" system limits the ability of many of Chinese citizens to access public services in places other than the government-authorized place where their household is registered. Changing this location on record is time consuming and difficult, and most of the 100+ million migrant workers in China have simply chosen to forgo access to services in exchange for better employment opportunities. END NOTE)

¶17. (SBU) In addition to basic services, the new regulation specifically allows migrants to register for the "birth service certificate" (REF A) of a first child (which can now be obtained after conception but is required in order to receive access to free or subsidized prenatal care and delivery services) in their place of temporary residence, easing the burden on migrants who previously had to make a long and expensive journey back home to register. Migrants still have to return to their original hukou location to apply for permission to have a second child, unless before migrating they had already obtained permission from family planning authorities in their hometowns. Babies born are still registered as residents of their parents' official hukou location, with migrant status from birth.

¶18. (SBU) The new regulation also establishes communications channels between family planning authorities at both the temporary residence and at registered "hukou" locations. The regulation specifically prohibits authorities from requiring migrants to return to their hometowns for check-ups on contraceptive and pregnancy

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status, stating that these regular pregnancy tests for monitoring unauthorized pregnancy should be conducted at the place of temporary residence. The results would later be reported back to the hometowns by the family planning officials who administer them. (COMMENT: In addition to providing a mechanism for local family planning officials to manage and monitor practices among migrants,

officials in each location ("hukou" and temporary) would likely use this system to exchange information on a migrant's compliance record. END COMMENT)

A NEW FOCUS: CUSTOMER SERVICE AND COUNSELING

¶19. (SBU) NPFPC's DDG Ru explained to ESTHoffs that in addition to increasing the accessibility of basic family planning services for migrants, the government is also taking steps to improve the quality of family planning service delivery mechanisms by adding social workers to local family planning teams, which currently include only administrative and medical staff. According to Ru, the social workers are expected to go beyond providing technical services. Social workers will play a "guidance" and "counseling" role and provide family planning advice, including information about contraceptives.

¶20. (SBU) Like PKU's Chen and Mu, Khan also noted China's growing emphasis on quality of care and service. Khan described UNFPA's work in advocacy and capacity building for informed choice over birth control methods. According to Khan, the choice of contraceptive method in China is traditionally determined by family planning officials. Under the model UNFPA is working to implement, couples should be provided at least three options for birth control, with the pros and cons of each method clearly explained before the couple is asked to make a choice. Khan argued that both penalties for unauthorized births and financial incentives for limiting family size are only short term solutions to family planning. Khan noted these policies also should follow a rights-based approach that emphasizes greater awareness of options and the consequences of different choices.

¶21. (SBU) Khan also told ESTHoffs that a related objective of UNFPA's work in improving quality of service delivery is to increase the range and flexibility of intervention options that family planning officials pursue. A complicating factor in this effort is that, at the county level, family planning falls under the Civil Administration Bureau, so the officials in charge of implementing service delivery often have an administrative rather than a public health background. To promote a more rights-based approach to family planning work that goes beyond low fertility rate targets, Khan said UNFPA is raising awareness of the consequences of extremely low fertility rates and is also working with NPFPC on their current review and reform of management and evaluation indicators.

COMMENT

¶22. (SBU) COMMENT: While enforcement of family planning in China continues to include punitive and coercive measures, since 2006, the government has attempted to improve enforcement and compliance with birth limitation restrictions by offering more positive incentives. Reward and subsidy programs have been effective in increasing compliance and participation in family planning among poor rural households. China's growing affluence has resulted in increasing numbers who can afford to freely make family planning decisions in spite of existing penalties. Additional work on revising the overall evaluation structure for family planning performance remains, however, so that it does not create perverse incentives for forceful and abusive enforcement of family planning rules. Citizens' rights in this area, as well as more serious and even criminal penalties against those who violate them, have yet to be clearly defined at the central level. END COMMENT.

HUNTSMAN